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# Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination against Women**

## Concluding observations on the combined fifth and sixth periodic reports of Slovenia

**Addendum**

## Information provided by Slovenia in follow-up to the concluding observations*

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Note: The present document is being circulated in English, French and Spanish only.

* The present document is being issued without formal editing.

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## Introduction

1. The Committee on the Elimination of Discrimination against Women considered, at its 62nd session held on 30 October 2015 in Geneva, the combined fifth and sixth periodic reports from Slovenia on the implementation of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/SVN/5-6). Following the Committee's combined consideration of the two reports, the Government of the Republic of Slovenia received its concluding observations and recommendations, including two observations requiring priority attention (paragraphs 26 and 38) in respect of which the Committee requests the Republic of Slovenia to provide, within two years, written information on the steps taken to implement them.

## Response by the Government of the Republic of Slovenia to recommendation No. 26

**The Committee urges the State party:**

**(a) To simplify the procedures for the issuance of permanent residence permits to all persons who were deleted from the register of permanent residents in 1992;**

2. In order to regulate the status of erased persons, the Republic of Slovenia adopted the Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia (hereinafter: the Amended Legal Status Act), which entered into force on 24 July 2010. The National Assembly passed the aforementioned Act with a view to definitely arranging the legal status of persons erased from the Register of Permanent Residents.

3. The Amended Legal Status Act defines conditions under which an alien who on 25 June 1991 was a citizen of another republic of the former Socialist Federal Republic of Yugoslavia (SFRY) and who has not yet obtained a permanent residence permit in the Republic of Slovenia might obtain a permanent residence permit regardless of the provisions of the Aliens Act. According to the Amended Legal Status Act, permanent residence permits can also be granted to persons erased from the Register of Permanent Residents not residing in the Republic of Slovenia provided their absence is justifiable. Justifiable reasons for absence include: 1. leaving the Republic of Slovenia because of the consequences of erasure; 2. leaving the Republic of Slovenia because of inability to acquire a residence permit; 3. inability to return to the Republic of Slovenia because of conditions of war in other successor states to the former SFRY; 4. forcible removal from the Republic of Slovenia; and 5. refusal of entry into the Republic of Slovenia. Under the Amended Legal Status Act, erased persons who have been living abroad for a justified reason, e.g. since 1992, can obtain permanent residence permits.

4. The Act regulates the status of citizens of other successor states to the former SFRY and specifies a time-limit of three years from the entry into force of the Act, i.e. by 24 July 2013, for submitting applications for permanent residence permits. The legislature deemed that such a period was sufficient to enable any interested person to become acquainted with the Act and to submit an application. Attention here should be drawn to the fact that the Ministry of the Interior of the Republic of Slovenia started to presented the Act prior to its entry into force. The Ministry issued a special brochure in Slovene and in four other languages of the successor states to the former SFRY and made it available to all interested parties at all administrative units in the Republic of Slovenia and at Slovenia's diplomatic missions and consulates in the other successor states to the former SFRY; the brochure was also distributed to relevant NGOs. The brochure's content and

relevant information were also available on the webpages of the Ministry of the Interior.

5. It should be added that the Act Regulating the Legal Status of Citizens of the Former Yugoslavia Living in the Republic of Slovenia had been adopted back in 1999, entered into force on 28 September 1999, and was subsequently amended in 2001 and 2010. The aforementioned Act specified a three-month time limit for submitting residence permit applications. The Constitutional Court later extended this time limit, by way of Decision No. U-I-246/02-28 of 3 April 2003, until the entry into force of the Act amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia or until 24 July 2013. Under the law, permanent residence permit applications could thus be submitted in the period from 28 September 1999 to 28 December 1999 and then again from 3 April 2003 to 24 July 2013. The Republic of Slovenia is of the opinion that an appropriate and sufficiently long period was afforded to the citizens of other states of the former SFRY for submitting (in due time) their permanent residence applications, account being taken of their personal and other circumstances.

6. Despite dissemination of information about the Amended Legal Status Act, not all erased persons availed themselves of the opportunity to submit permanent residence permit applications. In other words, they expressed no interest in regulating their status in the Republic of Slovenia. The Republic of Slovenia believes that these are erased persons who do not reside in the Republic of Slovenia and have had no intention of returning to Slovenia.

7. Those erased persons who failed to submit permanent residence permit applications under the Act regulating the status or who were not granted status following such applications may regulate their status, i.e. a residence permit in the Republic of Slovenia, under the conditions laid down by the Aliens Act.

**(b) To ensure that, in addition to receiving pecuniary compensation, all women and girls whose names were deleted from the register are entitled to payment of compulsory health insurance contributions, priority consideration in social assistance programmes and public funds, State scholarships, housing and access to the education system, on a basis of equality with Slovenian citizens, and to participation or priority treatment in integration programmes;**

8. In 2013, the Republic of Slovenia adopted the Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Residents. The Act entered into force on 18 December 2013 and started to apply on 18 June 2014. As indicated in the introductory provision, the purpose of the Act is to redress violations of human rights and fundamental freedoms suffered by persons erased from the Permanent Population Register. The Act also gives effect to the European Court of Human Rights (ECHR) Grand Chamber judgment of 26 June 2012 delivered in *Kurić and others v. Slovenia*.

9. During the legislative procedure, the range of beneficiaries was expanded. In addition to erased persons who obtained permanent residence permits or were granted Slovenian citizenship following erasure, the beneficiaries of compensation now include erased persons who tried to regularise their status in the Republic of Slovenia but saw their applications for permanent residence permits or Slovenian citizenship rejected or dismissed or the application procedure stayed. Such an expansion of the range of beneficiaries is also in line with the judgement of the ECHR Grand Chamber in *Kurić and others v. Slovenia* and the recommendation of the Committee of Ministers' Deputies of the Council of Europe. The beneficiaries were defined in line with the assessment of the ECHR Grand Chamber in the case of *Kurić and others v. Slovenia* as to which of the applicants were victims of violations

and were awarded compensation for non-pecuniary damage by the Court. According to the ECHR Grand Chamber, the applications of two applicants who at no time following erasure had applied for a residence permit nor in any manner manifested their wish to reside in the Republic of Slovenia were unfounded, as they failed to show sufficient interest in their situation or exhaust all domestic remedies in the Republic of Slovenia that were available at the time under the existing legislation. They were therefore not entitled to compensation.

10. As regards damage caused by erasure, the Act provides for the right to financial compensation and entitlement to other forms of just satisfaction to compensate for the damage suffered. In addition to claiming financial compensation in an administrative procedure, beneficiaries have the right to claim financial compensation in judicial proceedings. Other forms of just satisfaction enable or facilitate access to rights in various areas where it has been established in practice that facilitation would be useful or necessary. These include the payment of contributions for compulsory health insurance, inclusion and priority consideration in social assistance programmes, facilitation in exercising rights to public funds, state scholarships, equal treatment to that afforded to Slovenian citizens in resolving housing problems, access to the education system, and participation and priority treatment in integration programmes (i.e. programmes for faster integration into cultural, economic and social life in the Republic of Slovenia). Some detailed information:

- Payment of contributions for compulsory health insurance: a beneficiary who holds a permanent residence permit and fails to meet the requirements to enter the insurance scheme and who receives social assistance in cash or meets the requirements thereon is entitled to have his or her compulsory health insurance contributions paid.
- Inclusion and priority consideration in social assistance programmes: a beneficiary in need of assistance because of the consequences of erasure from the register of permanent residents is entitled to inclusion and priority treatment in social assistance programmes.
- Facilitation of exercising the rights to public funds: financial compensation paid under the Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Residents is not included in the income that is taken into account in exercising rights to public funds.
- Right to state scholarship: a beneficiary who holds a permanent residence permit is also entitled to a state scholarship if he or she meets other conditions laid down by the Scholarship Act and the Exercise of Rights to Public Funds Act (as also applicable to citizens of the Republic of Slovenia).
- Right to equal treatment in resolving housing problems: notwithstanding the provisions of the Housing Act, a beneficiary who holds a permanent residence permit enjoys the same treatment in resolving housing problems as citizens of the Republic of Slovenia.
- Access to the education system: a beneficiary who holds a permanent residence permit participates in publicly accredited education or study programmes to acquire publicly recognised education under the same conditions as citizens of the Republic of Slovenia.
- Right to inclusion and priority treatment in the integration programmes for aliens: a beneficiary who holds a valid permanent residence permit or has acquired citizenship of the Republic of Slovenia has the right to participation and priority treatment in programmes facilitating inclusion into the cultural, economic and social life of the Republic of Slovenia.

11. A final resolution in the case of *Kurić and others v. Slovenia* was adopted by the Committee of Ministers, which supervises the execution of final judgments of the ECHR, on 25 May 2016 at the 1,257th meeting of the Ministers' Deputies. Having examined the action report indicating the measures adopted in order to give effect to the judgments, the Committee of Ministers found that the Republic of Slovenia had satisfied all obligations under the ECHR Grand Chamber judgments of 26 June 2012 and 12 March 2014 regarding both individual measures addressed to the applicants and general measures. By adopting the Act Regulating Compensation for Damage to Persons Erased from the Permanent Population Register, the Republic of Slovenia had met the obligations regarding general measures under the pilot judgment. The Committee of Ministers of the Council of Europe therefore decided to close the examination in the case of *Kurić and Others v. Slovenia*.

12. The ECHR decided on the case of *Anastasov and Others v. Slovenia* (application No. 65020/13) on 17 November 2016. These applicants erased from the Permanent Population Register lodged an application with the ECHR in October 2013. The ECHR decided to strike the application lodged on behalf of 212 applicants from its lists of cases and close the pilot judgment procedure initiated in *Kurić and Others v. Slovenia*. It assessed that appropriate arrangements concerning compensation for the erased in the Republic of Slovenia were in place and was satisfied with the implementation of the Act in practice. According to the ECHR, erased persons who regularised their legal status in the Republic of Slovenia (in the case in question 212 applicants) have reasonable prospects of receiving compensation for the damage sustained from erasure. The ECHR noted that the matter of compensation for the erased had been resolved at the national level. The Court found no special circumstances regarding respect for human rights which required the continued examination of the case.

**(c) Facilitate family reunification under more favourable conditions for such women and girls**

13. As regards the reunification of the families of erased persons, the Republic of Slovenia explains that those family members who were themselves among the erased were able to obtain permanent residence permits in accordance with the Amended Legal Status Act under less stringent conditions than the arrangements under the Aliens Act.

14. Erased persons' children born after 25 June 1991 in the Republic of Slovenia and not themselves erased were able to obtain permanent residence permits under the Amended Legal Status Act if after their birth their erased parents had obtained permanent residence permits or acquired citizenship of the Republic of Slovenia.

15. Other family members who were not erased but resided in the Republic of Slovenia on 25 June 1991 and had since actually lived in the Republic of Slovenia without interruption were able to obtain permanent residence permits under the Amended Legal Status Act. Erased persons who have obtained permanent residence permits or acquired Slovenian citizenship may reunite other family members on the basis of arrangements under the Aliens Act.

## Recommendation No. 38

**The Committee urges the State party to ensure protection for all refugee and asylum-seeking women, strengthen its efforts to improve their living conditions by providing adequate health care, sanitary conditions, psychological support and legal counselling, especially for women with children, pregnant women or women at risk of trafficking or who are victims of violence, and take specific**

**measures to reduce overcrowding in shelters. It also urges the State party to uphold the principle of non-refoulement and to take a gender-sensitive approach to the continuing refugee inflows and to the asylum claims, including in procedural matters, in line with the rights covered in the Convention and its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women. It recommends that the State party consider ratifying the 1961 Convention on the Reduction of Statelessness.**

16. In the Republic of Slovenia this area is governed by the International Protection Act.

17. The Republic of Slovenia here provides some information about the measures taken during the wave of migration in autumn 2015 and in the first months of 2016, when both the migration flow and the number of international protection seekers increased substantially. The Republic of Slovenia saw to it that international protection seekers were ensured all rights and conditions as provided for in the relevant legislation and devoted particular attention to women and disadvantaged groups.

18. Pursuant to the Contingency Plan of the Republic of Slovenia to ensure accommodation and provisions in the event of increased number of applicants for international protection, the Ministry of the Interior promptly opened two additional branches of the Asylum Centre. One is exclusively intended to accommodate families.

19. Female applicants for international protection and other people from disadvantaged groups are thus ensured appropriately adapted accommodation, including all necessary psychosocial care. Single women are accommodated in a separate part of the Asylum Centre together with single mothers with young children and female potential victims of violence who have to be separated from members of their families. Where necessary, people in these groups may be moved to a more appropriate location outside the Asylum Centre, for example to a safe house.

20. Female applicants are provided access to:

- Information about the risks of human trafficking, sexual violence and gender-based violence;
- Legal information about their procedure, rights and obligations and the consequences of failure to comply with their obligations or to cooperate with the competent authorities and legal counselling and legal assistance provided in concrete cases;
- Emergency health and dental care and the rights to contraceptives, termination of pregnancy, and healthcare during pregnancy and childbirth;
- A psychologist and in exceptional case also to psychotherapeutic help.

21. In dealing with refugees and asylum seekers, the Republic of Slovenia devotes particular attention to the aspect of gender equality and to strengthening the awareness of women's rights. In 2016, the Ministry of Labour, Family, Social Affairs and Equal Opportunities, together with Slovene Philanthropy, Association for the Promotion of Voluntary Work, a non-governmental humanitarian organisation, a workshop aimed at raising awareness of gender equality among refugees and asylum seekers, and a training seminar in gender equality in the context of migration and exile intended for professionals who design and implement various measures and activities for refugees and asylum seekers. With a view to

acquainting refugees and asylum seekers with women's rights and gender equality in the Republic of Slovenia, a handbook was designed and issued; this features easy-to-understand and illustrated presentations of the rights of girls and boys to education, the rights of women and men relating to employment, partnership relations, sexuality and reproductive healthcare, and cultural patterns. Within the framework of the National Bilateral Fund of the Norwegian Financial Mechanism 2009-2014, in 2017 the Ministry of Labour, Family, Social Affairs and Equal Opportunities organised an international panel discussion entitled "The gender dimension in the context of the care and integration of migrants" with a view to presenting examples of good practice in the area of migration and gender equality and exchanging experience gained in working with migrant men.

22. As regards the recommendation that the State Party consider ratifying the Convention on the Reduction of Statelessness (1961), the Republic of Slovenia explains that the applicable Citizenship of the Republic of Slovenia Act includes several elements that prevent the occurrence of statelessness which are included in said Convention.

23. The most important of these are the following:

- A child born in the Republic of Slovenia may acquire Slovenian citizenship if his or her parents are stateless or of unknown citizenship; this also applies to a child found in the territory of the Republic of Slovenia;
- In procedures for the acquisition of citizenship of the Republic of Slovenia, particular attention is devoted to minors where refusal would cause statelessness;
- A stateless person may acquire citizenship of the Republic of Slovenia by naturalisation provided that he or she has been continuously living in Slovenia for the past five years;
- Release from Slovenian citizenship is only given if the person concerned is to be granted foreign citizenship.

24. Compared with the recommendations of the Convention, certain conditions for obtaining Slovenian citizenship as laid down in the Act are even more favourable (e.g. unconditional acquisition of citizenship by origin if both parents are citizens of the Republic of Slovenia or by notification if at least one parent is a citizen of the Republic of Slovenia).

25. Only a few stateless persons have been recorded in the procedures for the acquisition of citizenship of the Republic of Slovenia. Since 2005, only 13 persons have acquired citizenship pursuant to the less stringent conditions, while rejection decisions have been issued to three people.

26. The Republic of Slovenia is a signatory to the Convention relating to the Status of Stateless Persons. The Ministry of the Interior has examined the contents of the provisions of the 1961 Convention on the Reduction of Statelessness in detail. Having done so, the Ministry is reluctant to ratify the Convention on account of its Article 12, which would require retroactive application of Article 1 of the Convention to persons born in Slovenia before its entry into force. This would give rise to the question of the acquisition of Slovenian citizenship by persons who were born in Slovenia but went on to acquire citizenship of one of the other republics of the former Yugoslavia in accordance with the legislation in force at the time of their birth.